

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-360-T - ORDER NO. 2004-199

MAY 6, 2004

IN RE:	Application of Pleasant Moves, Inc. d/b/a)	ORDER GRANTING
	Two Men and a Truck, 500 E. Henrietta Ave.,)	CLASS E CERTIFICATE
	Greenwood, SC 29649 for a Class E (HHG))	
	Certificate of Public Convenience and)	
	Necessity)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Pleasant Moves, Inc. d/b/a Two Men and a Truck ("Pleasant" or the "Applicant"), 500 E. Henrietta, Ave., Greenwood, SC 29649. This Application was initially received by the Commission as a request for authority by the Applicant to transport household goods between points and places throughout the State of South Carolina. The Application was subsequently amended by the Applicant, after the hearing was held in this case, to request a Class E Certificate of Public Convenience and Necessity to transport household goods as follows:

Household Goods, As Defined in R. 103-210(1):

From points and places in Abbeville, Anderson, Greenwood, McCormick and Oconee Counties to points and places in South Carolina; and

From points and places in South Carolina to points and places in Abbeville, Anderson, Greenwood, McCormick, and Oconee Counties.

The Commission's Executive Director instructed the Applicant to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing was published and instructed the public as to how to file pleadings to

participate in the proceedings on the Application. Petitions to Intervene were received from Kohler Moving and Storage, Inc. (“Kohler”) and Dickert’s Moving and Storage, Inc. (“Dickert’s”).

A hearing was held on March 18, 2004, at 2:30 PM in the offices of the Commission. The Honorable Mignon Clyburn, Chair, presided. Robert T. Bockman, Esquire, appeared representing the Applicant. Mark W. Hardee, Esquire, appeared representing the Intervenor Dickert’s. The Commission Staff was represented by F. David Butler, General Counsel.

William West, Paula West, Charlotte Van deVelden, Mark Warner, and Joe Lax appeared and testified on behalf of the Applicant Pleasant. Mr. West is the owner of Pleasant. Mr. West testified that he had over 30 years experience in the manufacturing industry, the last 20 of which were spent employed by Cooper Manufacturing and Fuji Film in Greenwood, South Carolina. Mr. West stated that he felt that there was a need for a local moving company in the Greenwood area and was seeking to obtain a franchise from Two Men and a Truck Corporation for his moving company. Mr. West testified that he had not yet purchased any equipment but provided the Commission with photographs and price quotes for moving trucks which he stated that he intended to purchase or lease. Mr. West further stated that he had not yet paid a franchise fee to Two Men and a Truck pending the issuance of a permit by this Commission.

As to the anticipated business operations of Pleasant, Mr. West testified that Pleasant intended to specialize in local and short notice moves; an aspect of the moving industry which he stated that the Greenwood area was lacking. He stated that he did not

believe that Pleasant would be competing for the same business as Dickert's and that he would not be buying or leasing any warehouse facilities in the foreseeable future. Mr. West further stated that he anticipated using the expertise of the Two Men and a Truck franchise to learn the finer points of the moving industry.

Mrs. West testified that they had recently made a local move in Greenwood and that Dickert's, as the only local mover, had provided the West's with an estimate that the move would cost \$1,800 and take two days. The West's eventually contracted with Two Men and a Truck in Greenville, South Carolina who moved them for \$800 in one day. Mrs. West testified that based on this move that she and her husband began considering opening a moving company in the Greenwood area.

Ms. Charlotte Van deVelden is a real estate agent in the Greenwood area and is employed by Remax Realty. Ms. Van deVelden testified that she believed that another licensed mover was needed in the Greenwood area to provide some competition for Dickert's. On questioning by the Commission, Ms. Van deVelden testified that she could only remember one time when she was unable to locate a mover that was unable to accommodate the schedule of one of her real estate clients.

Mr. Mark Warner is employed by Bosch Corporation in Anderson, South Carolina. As a part of his duties, he assists employees of Bosch in moving to and from the Anderson area. He testified that he has known Mr. West for more than twenty years and believes him to be a good businessman and hard worker. He additionally testified that he felt that there was a need for another licensed mover in the Greenwood and Anderson area to provide competition for Dickert's.

Finally, Mr. Joe Lax testified on behalf of the Applicant. Mr. Lax is a resident of Ninety-Six, South Carolina. He testified that as a career military officer that he had made over 23 moves and considered himself somewhat of an expert. Mr. Lax testified that he had offered to voluntarily assist the Wests in establishing their company and that he had known them for over six years.

Testifying on behalf of the Intervenor Dickert's was its Vice President Jerry Fortson. Mr. Fortson testified that Dickert's had been sold approximately four years ago and since that time had made substantial investments in warehouse facilities and equipment. Dickert's is associated with Allied Van Lines and holds both state-wide authority from the Commission and Interstate authority. He testified that all of Dickert's drivers have CDL licenses and receive frequent training and drug testing. Mr. Fortson further testified that there are a total of 7 movers listed in the Greenwood phonebook and that Dickert's also competed with movers in the Augusta, Georgia and Greenville, South Carolina areas due to their proximity. Mr. Fortson stated that the moving market is currently flat in the Greenwood area and that last year movers licensed by the Commission reported overall losses of \$7.9 million. Mr. Fortson further opined that additional competition in the Greenwood area may drive Dickert's out of business, leaving the area without an intra and interstate mover with warehouse facilities.

Dickert's final witness was Mr. Phil Callahan. Mr. Callahan has been employed with Dickert's and Allied Van Lines since 1976. He testified that Dickert's is a "full service" moving company; providing intra and interstate moving as well as warehouse facilities for storage of household goods. He stated that Dickert's is the only full service

mover in the Greenwood area. Mr. Callahan stated that the storage facilities of Dickert's provided customers with a location to store household items pending a move or the purchase or building of a new home. He stated that if Dickert's is forced to go out of business that there will be no such storage facilities in the Greenwood area, which would be left with only self-storage facilities.

S.C. Code Ann. 58-23-590(C) (Supp. 2003) states that the Commission shall issue a common carrier certificate of public convenience and necessity if the applicant proves to the Commission that: (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of the chapter and the Commission's regulations and (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity. We would note that we have waived the "shipper witness" rule to show public convenience and necessity found in 26 S.C. Code Regs. 103-133 (Supp. 2003) for applicants seeking authority in three contiguous counties. In the present case, the Applicant has reduced its Application from its initial request for state-wide authority, but the area sought is a five county area.

We find that the witnesses presented on behalf of the Applicant established that the Applicant is fit, willing and able to provide the services for which it seeks a license from this Commission. We further find that the Applicant established that public convenience and necessity warrant the issuance of a permit in the area surrounding Greenwood, South Carolina. However, we also find that the evidence presented was insufficient to establish in the entire area requested "that the public convenience and

necessity are not already being served in the territory by existing authorized service.”

S.C. Code Regs. 103-133(1).

Specifically, the Applicant’s testimony almost exclusively focused on the need for small local moves in and around the City of Greenwood but failed to adequately address the public convenience and necessity requirement throughout the State of South Carolina in the amended five county area. The only witness testifying on behalf of the Applicant to discuss an area other than Greenwood was Mr. Mark Warner who works for Bosch Corporation in Anderson, South Carolina. Mr. Warner’s testimony in support of the Application was limited to his personal knowledge of Mr. West as a good businessman and his personal opinion that increased competition in the Anderson area would be good. This is not, however, the standard under which this Commission must consider this Application. Mr. Warner provided no testimony that the area of Anderson was not already being adequately served by household movers already licensed by this Commission to operate in Anderson County. It is worth noting that Anderson County is not contiguous to Greenwood County.

In its amended Application, Pleasant requested authority in Greenwood, Anderson, Abbeville, McCormick, and Oconee Counties and from those counties to places in South Carolina and back. Of these five counties only Abbeville and McCormick border on Greenwood County. There was significant testimony presented at the hearing concerning the need for a small local moving company in Greenwood, but as the Applicant failed to meet its burden of establishing through a “shipper witness” that such services are needed in the other counties in which authority is sought, the

Commission hereby limits the authority provided to the Applicant to Greenwood County and the other two counties contiguous thereto as named in the amended Application, namely Abbeville and McCormick Counties.

Based upon the record before the Commission and the statutory requirements along with the guidelines contained in the Commission's regulations, we therefore grant to Pleasant a Class E Certificate of Public Convenience and Necessity for the movement of household goods as follows:

Household Goods, As Defined in R. 103-210(1):
Between points and places in Greenwood, McCormick, and
Abbeville Counties.

This grant of authority is contingent upon compliance with all Commission regulations as outlined below.

IT IS THEREFORE ORDERED:

1. That the Application of Pleasant Moves, Inc. d/b/a Two Men and A Truck for a Class E Certificate of Public Convenience and Necessity be, and hereby is, approved for authority to transport household goods between points and places in Greenwood, McCormick and Abbeville Counties.

2. Pleasant Moves, Inc. shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended (Supp. 2003), and R.38-400 through R. 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended (Supp. 2003), within sixty (60)


days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a Certificate shall be issued to Pleasant Moves, Inc. authorizing the motor carrier services granted herein.

4. Prior to compliance with the above-referenced requirements and receipt of a Certificate, the motor carrier services authorized herein shall not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Bruce F. Duke, Executive Director

(SEAL)